

September 17, 1997

VIA FACSIMILE

Commissioner Michael Moore  
Presiding Committee Member  
California Energy Commission  
1516 Ninth Street, MS-34  
Sacramento, CA 95814-5512

Subject: Docket No. 97-DC & CR-1  
Comments of City of Palo Alto Utilities on the Commission Staff's Proposed  
Rules on Data Confidentiality

Dear Commissioner Moore:

City of Palo Alto Utilities (City or CPAU) hereby respectfully submits its Comments on the Commission Staff's Proposed Rules on Data Confidentiality. The Comments also address issues related to the nature and quantity of energy data the Commission may need to collect to carry out its mandate in a more competitive energy industry. The City strongly supports the efforts of the Commission to reexamine its data collection and disclosure practices in light of the requirements of the new industry environment and appreciates the opportunity to provide comments on these issues.

Sincerely,

Tom Habashi  
Assistant Director  
Resource Management Division

Enclosure

Commissioner Michael Moore

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cc: Commissioner David Rohy, Second Committee Member  
Martha Brook, CEC Project Manager  
Caryn Hough, CEC Office of Chief Counsel  
Docket Office

**BEFORE THE CALIFORNIA ENERGY COMMISSION**

In the Matter of:	)	Docket 97-DC&CR-1
	)	September 15, 1997
Recommendations for Amending Energy	)	
Commission's Responsibilities and Activities Related	)	
to Data Collection, Analysis, and Dissemination	)	
_____	)	
Proposed Amendments to the Energy Commission's	)	
Regulations Pertaining to Data Collection and	)	
Disclosure of Energy Commission Records	)	
_____	)	

**COMMENTS OF CITY OF PALO ALTO UTILITIES  
ON THE COMMISSION STAFF'S PROPOSED RULES  
ON DATA CONFIDENTIALITY**

CITY OF PALO ALTO UTILITIES  
250 Hamilton Avenue  
Palo Alto, CA 94301  
(650) 329-2695

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### **COMMENTS OF CITY OF PALO ALTO UTILITIES ON THE COMMISSION STAFF'S PROPOSED RULES ON DATA CONFIDENTIALITY**

Pursuant to the schedule established at the August 20, 1997 workshop, the City of Palo Alto Utilities (CPAU) hereby submits its initial comments on the California Energy Commission (Commission or CEC) Staff's proposed changes to the Commission's regulations concerning confidentiality and disclosure of records (California Code of Regulations, Title 20, sections 2501 et seq.). In addition, CPAU's comments will address broader issues pertaining to the data collection activities of the CEC in a competitive energy industry.

## **INTRODUCTION**

### **A. Background on Palo Alto Utilities**

The City of Palo Alto has operated a municipal electric utility since 1900 and has provided natural gas service since 1919. The City currently serves approximately 28,000 retail electric customers and 22,000 gas customers. To serve its customers, the City has constructed its own electric and gas distribution systems and performs all functions necessary to maintain and operate these systems in a safe, sound, and economical

manner. Ratemaking, regulatory, and policy making authority rests with the City's nine-member elected City Council, as advised by a Utilities Advisory Commission consisting of five business and residential customer representatives.

CPAU is currently engaged in activities to respond to changes in the electricity industry resulting from California Assembly Bill 1890 and the initiatives of the Federal Energy Regulatory Commission and California Public Utilities Commission. The City's ability to compete in a restructured energy industry could be significantly affected by the Commission's regulations on data collection and confidentiality. CPAU has therefore actively monitored the filings of the Commission's Staff and other parties on the issue of data confidentiality. CPAU also intends to participate actively in the proceedings on data collection scheduled to begin in October.

#### **B. General Comments**

As stated in its May 21, 1997 Order Instituting Rulemaking, the underlying purpose of this proceeding is to ensure that the Commission's data collection and confidentiality regulations and practices "strike the right balance" between protecting confidential and commercially sensitive information and preserving the public's right to have access to information provided to the Commission. The outcome of the proceeding will affect the competitive positions of both investor-owned utilities (IOUs) and community-owned utilities such as the City of Palo Alto.

CPAU fully supports the Commission's efforts to review and, where necessary, change its data reporting and confidentiality regulations to meet the needs of a restructured energy market. In the new competitive environment, energy consumption and cost data have taken on new value and significance. Hence, customer privacy and security of competitive, proprietary information needs to be protected. The entire subject of information management therefore promises to become an increasingly important issue for all industry participants, including public agencies like CPAU.

CPAU believes that to meet the needs of a more competitive energy industry, significant changes will be required to the CEC's existing data collection and disclosure practices. In all likelihood, this will require a combination of regulatory and legislative changes. Staff's proposed redraft of the Title 20 regulations on data confidentiality is a commendable first step in this effort. CPAU's specific comments on the Staff's draft regulations are provided below.

### **COMMENTS ON STAFF'S PROPOSED CHANGES TO TITLE 20**

#### **A. Treatment of Information Provided by Public Entities (Section 2505(b)(2))**

Staff's proposed changes to Title 20, issued August 6, 1997 and updated September 5, 1997, contain a new Section 2505 (b)(2) specifically addressing the treatment of energy information provided by other public agencies. The paragraph states that,

“When another state or local agency possesses information pertinent to the responsibilities of the Commission that has been designated by that agency as confidential under the Public Records Act, the Commission may request and the agency may submit the information to the Commission without an application for confidential designation. The Commission shall treat such information as confidential unless disclosure is ordered by a court of competent jurisdiction”.

CPAU strongly supports the Staff's proposed language which clearly recognizes the jurisdiction and responsibilities of a local agency over its own records. Under the California Public Records Act (California Code Section 6252 (b)), a municipal electric and gas utility such as CPAU clearly falls within the definition of a local agency. Staff's

proposed draft also eliminates potential duplication of effort by local agencies and the CEC in designating confidentiality. Since CPAU is already subject to the *Public Records Act*, CPAU would make its own determination of records exempt from disclosure under

the Act. Additionally, the proposed Section is consistent with Section 6254(16) of the Government Code (added August 15, 1997 by Senate Bill 448) which enables CPAU and other local agencies to withhold disclosure of specific utility customer records, except for specified purposes. CPAU urges the Commission to adopt Staff's proposed language as written.

**B. Section 2506, Request for Inspection or Copying of Confidential Records**

Staff's proposed language would require the Commission to obtain permission of the party submitting the information before it can be released to a requesting party. CPAU supports this requirement. In addition to establishing this principle, however, the Commission should clarify that it will not disclose information requested to be withheld as confidential until a final Commission decision is issued on any appeal filed by the submitting party, even if this occurs after a decision by the Executive Director or Chief Counsel. Such appeals may take up to four weeks.

CPAU also requests that Section 2506(c) "List of Records Determined to be Confidential," be modified to include information defined as "automatic designation" as well as information held confidential by a Commission order pursuant to this section. The reference to Section 2506(d) should also be revised to refer to the appropriate section of the proposed regulations, which do not contain a Section 2506(d).

**C. Section 2507, Disclosure of Confidential Records**

Proposed Section 2507 identifies the parties to whom the Executive Director may disclose records designated confidential. CPAU supports this section as it is generally consistent with CPAU's own disclosure practices. The requirement to mask or aggregate information "to the point necessary to protect confidentiality" (Section 2507(a)(4)) is particularly important to protect individual customer privacy. Masking or aggregation also may be needed to protect other competitive or proprietary information such as generation costs or prices.

## COMMENTS ON DATA COLLECTION

CPAU generally agrees with comments of other utilities that, as a first step in refining its data collection requirements, the Commission should assess the information needs of market participants and other stakeholders and develop a clear rationale for its reporting requirements. The Commission should then determine the amount, level of detail and desired quality of information it needs to fulfill its goals and obligations. Data collection may be streamlined by finding synergies, or at least consistency, with the data requirements and availability of other parties and agencies. Data collection requirements should apply equally to all retail market participants and the CEC should pursue legislative authority to effect this.

CPAU favors a process that reduces the reporting burden on market participants by: (1) minimizing the amount of data required to be submitted; (2) requiring information at the highest level of aggregation possible; (3) streamlining reporting by requiring electronic submission of data via secure means and using commonly-accepted platform; and (4) minimizing the frequency of reporting needed. The CEC should also could determine if sources of information other than utilities would satisfy some of its data collection needs, thereby minimizing cost and eliminating redundancies.

CPAU supports automatic designation of certain categories of information as *prima facie* confidential. At a minimum, automatic designation should apply to any data which would permit an individual customer's or supplier's data to be identified. Once such information has been designated confidential, it should remain confidential in any unmasked or disaggregated form without the need for repeated justification. CPAU agrees with Pacific Gas & Electric Company's comment that "confidentiality status should be automatic for customer consumption and revenue information below the highest level



of aggregation that meets the Commission's reporting and monitoring requirements relating to QFER data. No individual consumer or supplier of a competitive commodity or service should be identifiable...."<sup>1</sup> These information categories should be further discussed at the workshop scheduled for October 2, 1997.

In this regard, CPAU is concerned with the CEC Staff's suggestion that it needs more detailed information "at the finest geographical and customer sector levels of disaggregation possible" and "for regions smaller than counties."<sup>2</sup> This suggestion raises several key issue that must be addressed: (1) to what extent is the additional detail needed to fulfill the CEC's mandate to conduct retail market analysis?; (2) which stakeholders have expressed interest in this information and what are their reasons for requiring such data? and (3) would the costs of obtaining more detailed data be offset by any greater analytical benefits in identifying industry trends, market transformation, restructuring impacts, and supporting other CEC activities? CPAU believes that maintaining confidentiality of information and masking and/or aggregating data to protect confidentiality will become progressively more difficult and problematic the finer the level of detail required. Additionally, due to the smaller size of most municipal systems, disaggregation of municipal utility loads by customer sector could have a disproportionately negative effect on the competitiveness of municipal utilities. Such an outcome would compromise the level playing field the Commission is seeking to create in its restructuring activities

Finally, regarding the conversion from Standard Industry Classification (SIC) to the North American Industry Classification System (NAICS), CPAU favors CEC leadership in

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<sup>1</sup> Pacific Gas and Electric Company's Responses to the Questions of the Ad Hoc Information Committee and Staff Regarding Changes to Data Collection and Confidentiality Regulations, August 11, 1997, page 5.

<sup>2</sup> Issues Related to CEC's Energy Consumption Data Collection, Analysis and Dissemination Activities, July 1, 1997, pages 3 and 4.

developing a conversion table to translate existing SIC to NAICS codes. Such a conversion tool would ensure consistency between existing and future reporting as well as between entities. The Commission should expect that conversion by utilities will take some time; CPAU does not anticipate converting to NAICS until after 1999.

## **CONCLUSIONS**

For the reasons discussed above, the Commission should approve the Staff's proposed Section 2505(b)(2) governing confidentiality of information submitted by local agencies such as CPAU. Staff's other proposed changes should be adopted as modified above. In the data collection phase of this proceeding, the Commission should seek to reduce the reporting burden on market participants by: (1) minimizing the amount of data required to be submitted; (2) requiring information at the highest level of aggregation possible; (3) requiring electronic submission of data via secure means and using commonly-accepted platform; and (4) minimizing the frequency of reporting needed

Dated: September 15, 1997

Respectfully submitted,

CITY OF PALO ALTO

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Tom Habashi  
Assistant Director  
Resource Management Division